

attendee International Specialty Supply on its website. See Second Affidavit of Stephen T. Carney attached hereto and incorporated herewith. This publication of the Study did also occur within one year of our filing this Patent application and is not considered prior art.

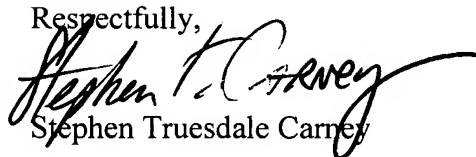
**The Muldoon Article Argument.** Your second basis for rejecting our application is based on your allegation that an article written by Ms. Muldoon describing the food intake of a particular athlete which included the use of alfalfa powder is prior art.

*Argument Refuted :-* This rejection fails on two parts. First, there is no connection made in the article between the intake of alfalfa powder and lowering the high risk factors of cardiovascular disease as set out in our Patent Application. Second, our Patent Application is based on specially prepared alfalfa sprout powder (emphasis added) which is very different from powder made from fully matured alfalfa. In short, the Muldoon article shows no prior art that usurps the claims made in our Patent Application and is not a basis for rejection.

#### **Conclusion**

We formally request that you rescind your final rejection of our Patent Application and proceed with its publication and allowance. In a phone conversation between Ms. Leith, her supervisor, Mr. Carney and Mr. Vultaggio the above reasons for rejection for prior use were successfully refuted and we have provided your office with substantial proof in the form of affidavit evidence supporting said arguments. Therefore you should proceed appropriately with the allowance of the Patent Application.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully,  
  
Stephen Truesdale Carney



United States Patent & Trademark Office  
Rule 132 Affidavit

Appl. No. : 10/800,608  
Applicant : Stephen Truesdale Carney  
Filed : March 15, 2004  
TC/A.U. : 1655  
Examiner : Patricia A. Leith

Sent, May 13<sup>th</sup> 07  
Sent, June 7-07

Second Affidavit of Lawrence D. Rink

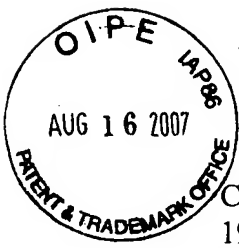
I, Lawrence D. Rink, M.D., F.A.C.C., hereby duly depose and say as follows:

1. I am a Fellow of the American College of Cardiology and have been certified member of the American Board of Internal Medicine, Cardiovascular Disease, since 1983.
2. I have lectured, performed clinical studies and published numerous articles on the issues of cardiovascular disease and hyperlipidemia.
3. Upon the request of Mr. Stephen T. Carney and as a work for hire pursuant to a valid Non Disclosure and Confidentiality Agreement, I conducted the Folic Acid and Alfalfa, The FALL Study, (the "Study") described and made part of the above referenced Patent Application.
4. While I am the author of the Study, the Study was completed as a work for hire and on behalf of the Applicant, Stephen T. Carney. As of the date of this Affidavit, I have never caused said Study to be published or decimated to the public.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Signed under the pains and penalties of perjury this 13 day of May, 2007.

  
Lawrence D Rink, M.D. FACC



CLC Nutraceuticals, LLC  
191 Spring Road  
North Kingston, Rhode Island 02852  
(401)8867600

June 22, 2007

VIA FACSIMILE  
Ms. Patricia Leith, Examiner  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

Re: Patent Application 10/800,608


Dear Ms. Leith:

Pursuant to our telephone conversation last week with you, please find enclosed herewith an Affidavit of Stephen T. Carney outlining the facts regarding the publication of our study. Also, please provide us with any additional requirements you are requesting from his to prove that the Study is NOT prior art. Finally, as we discussed, you have dropped your rejection based on the Muldoon article as prior art.

Please contact Mr. Carney at your earliest convenience with any questions or additional items you may require so we can proceed with obtaining patent protection for NCB.

Thank you for your anticipated cooperation in this matter.

Respectfully

  
Jack J. Vultaggio, Jr.  
Secretary General

Enclosures



United States Patent & Trademark Office  
Rule 132 Affidavit

Appl. No. : 10/800,608  
Applicant : Stephen Truesdale Carney  
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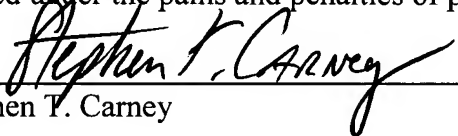
Affidavit of Stephen Truesdale Carney

I, Stephen Truesdale Carney, hereby duly depose and say as follows:

1. I hired Lawrence D. Rink, M.D. FACC ("Dr. Rink"), to conduct the Folic Acid and Alfalfa, The FALL Study, (the "Study") described and made part of the above referenced Patent Application. For your convenience, a copy of said Study is included herewith as Exhibit A. The purpose of the Study was to prove the claims made in the above referenced Patent Application filed on March 15, 2004.
2. On my behalf, Dr. Rink completed the Study on February 12, 2002 at which time he signed and dated the Study.
3. Dr. Rink has never published the Study. See Second Affidavit of Lawrence D Rink, M.D. FACC included herewith for your convenience as Exhibit B.
4. On June 7, 2003, during the construction of my company's website, NCB3.COM, I published the Study on NCB3.COM. See Archive of Website included herewith as Exhibit C.
5. Our first website was completed and was fully operational for the public on November 18, 2003. See Exhibit C.
6. On July 19, 2003, I spoke at a conference presented by the International Sprout Growers Association at which I provided to the attendees our findings from the Study. The Study was later published on the website of one of the conference participants International Specialty Supply. This is the publication you referenced in your last rejection letter to me.
7. To the best of my knowledge, the Study was not published before June 7, 2003.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Signed under the pains and penalties of perjury this 21st day of June, 2007.

  
\_\_\_\_\_  
Stephen T. Carney

## FOLIC ACID AND ALFALFA The FALL Study

### Background:

There have been reports that alfalfa sprouts will lower total cholesterol and LDL levels in the blood. This has not been tested in a prospective, randomized or blinded trial.

### Methods and Results:

45 patients, most with known coronary artery disease and many under treatment for hyperlipidemia were selected for the study. Patients were randomly assigned to either Group A placebo, Group B low dose alfalfa, and 230 mcg of folic acid, or Group C double dose alfalfa and folic acid.

The trial was 6 weeks and all patients were instructed to follow a low fat, low cholesterol diet, perform regular exercise in moderation, and to take the medication regularly. Group A (placebo)-one capsule per day, group B-two capsules per day, and group C-two capsules twice per day.

	Group A	Group B	Group C
<b>LDL</b>	5.9% decrease	16.6% decrease	8.6% decrease
<b>HDL</b>	3.2% decrease	11.2% increase	1.5% increase
<b>C-reactive protein</b>	33.6% increase	24.4% decrease	50.4% decrease
<b>Homocysteine</b>	5.6% increase	11.5% decrease	6.3% decrease
<b>Triglycerides</b>	2.4% decrease	1.4% decrease	15.0% decrease

### Statement:

Cardiovascular disease is the most common cause of death and disability in the United States. More people die from cardiovascular disease than all of the other causes of death combined. Cardiovascular disease has been the most common cause of death in the United States since 1900 with the exception of the year 1918, during a flu outbreak. Multiple epidemiologic and clinical blinded prospective studies have indicated that lowering LDL levels will decrease the risk of cardiac events in primary prevention and will decrease recurrent cardiac events and decrease mortality in secondary prevention. The FDA has approved many drugs to be used in lipid lowering. Approximately 15 billions dollars per year is spent on lipid lowering medications. An equal amount of money is estimated to be spent on dietary and herbal supplements that do not require FDA approval and which are primarily directed toward lowering the risk of cardiovascular events. There are reports that alfalfa sprouts will lower serum cholesterol LDL levels and possibly raise HDL levels.

Prospective studies using diet as a means of controlling risk factors for cardiac events and decreasing cardiac events have been disappointing. The information regarding omega-3 fatty acids probably offers our best opportunity in this regard. The Adult Treatment Panel III has recommended lifestyle changes including exercise and dietary modification as a major means of lowering cardiovascular risk and future cardiac events.

Among a list of emerging “risk factors” are homocysteine levels and C-reactive protein. Elevated levels of homocysteine are positively correlated with risk for CHD. Folic acid and possibly B vitamins 6 and 12 have been documented to lower homocysteine levels.

C-reactive protein (CRP) is a marker for inflammation. Coronary artery disease is an inflammatory disease and there is now substantial evidence that persons with elevated high sensitivity C-reactive protein (hs-CRP) are at increased risk for future cardiac events. Inflammation within coronary plaques leads to plaque rupture and cardiac events. Statin drugs and a healthy lifestyle are known to reduce high sensitivity C-reactive protein. The Writing group of the 2002 workshop on inflammation markers and cardiovascular disease recommended measurement of hs-CRP in conjunction with other risk factors in people with increased risk of coronary artery disease. In many studies hs-CRP has been a better predictor of future cardiac events than LDL.

With this in mind, we undertook a study to determine the effects of alfalfa sprouts and folic acid on known risk factors of coronary artery disease including total cholesterol, LDL, HDL, triglycerides, high sensitivity C-reactive protein, homocysteine levels, and apolipoprotein (b).

All patients were already under some form of treatment for hyperlipidemia. The patients were advised not to change their medication prior to enrollment to the study or during the trial. The study was first discussed with the patients and they were supplied capsules which either contained placebo, Group B 560 mg of alfalfa sprout powder and 230 mcg of folic acid, 2 capsules each day for a total of 1,120 mg alfalfa sprout powder and 460 mcg of folic acid or Group C, 2 capsules twice a day for a total of 2,240 mg of alfalfa sprout powder and 920 mcg of folic acid.

All patients underwent a history and physical exam prior to the start of the study and prior to blood samples being obtained. All patients received instruction in a low fat, low cholesterol diet, similar to the previously recommended Step 2, American Heart Association diet. All patients were instructed in exercise in moderation.

The majority of patients in this study were already following this type of lifestyle. Over 50% of the patients were already receiving statin drugs and many of the other patients were intolerant to statins because of myalgias or true rhabdomyolysis.

Many patients were already receiving folic acid.

## **Results:**

1. All patients tolerated the medication well.
2. One patient in the placebo group stopped the medicine because she felt that the drug irritated her stomach.
3. One patient dropped out of Group C for personal reasons.
4. One patient in Group C who was taking 80 mg of an atorvastatin a day discontinued his atorvastatin during the study and therefore he had a marked increase in LDL level and his results were not included in the averages.

The results of the study were encouraging in that the LDL levels decreased in both treatment groups and more than in the placebo group. HDL also increased in both treatment groups and decreased in the placebo group. A surprising potential benefit of this treatment was the lowering of high sensitivity C-reactive protein levels. This has not been previously reported and the possible mechanism for this is

not known, unless it is merely on the basis of lowering LDL levels. A similar lowering was not noted in the placebo group.

The results of the study are impressive since the average baseline LDL levels were only 133 and 151 in Groups B and C. The reason for a greater percentage reduction of LDL and raising HDL in Group B is not clear.

A combination of alfalfa sprout powder and folic acid appears to be a reasonable relatively inexpensive method for lowering one's risk for cardiac events. This should be tested in a larger, double blinded prospective trial to see if this not only lowers known cardiac risk factors but also lowers the number of cardiac events.

Lawrence D. Rink, M.D., F.A.C.C.  
Clinical Professor of Medicine  
Indiana University School of Medicine

February 12, 2003



**United States Patent & Trademark Office  
Rule 132 Affidavit**

Appl. No. : 10/800,608  
Applicant : Stephen Truesdale Carney  
Filed : March 15, 2004  
TC/A.U. : 1655  
Examiner : Patricia A. Leith

Second Affidavit of Lawrence D. Rink

I, Lawrence D. Rink, M.D., F.A.C.C., hereby duly depose and say as follows:

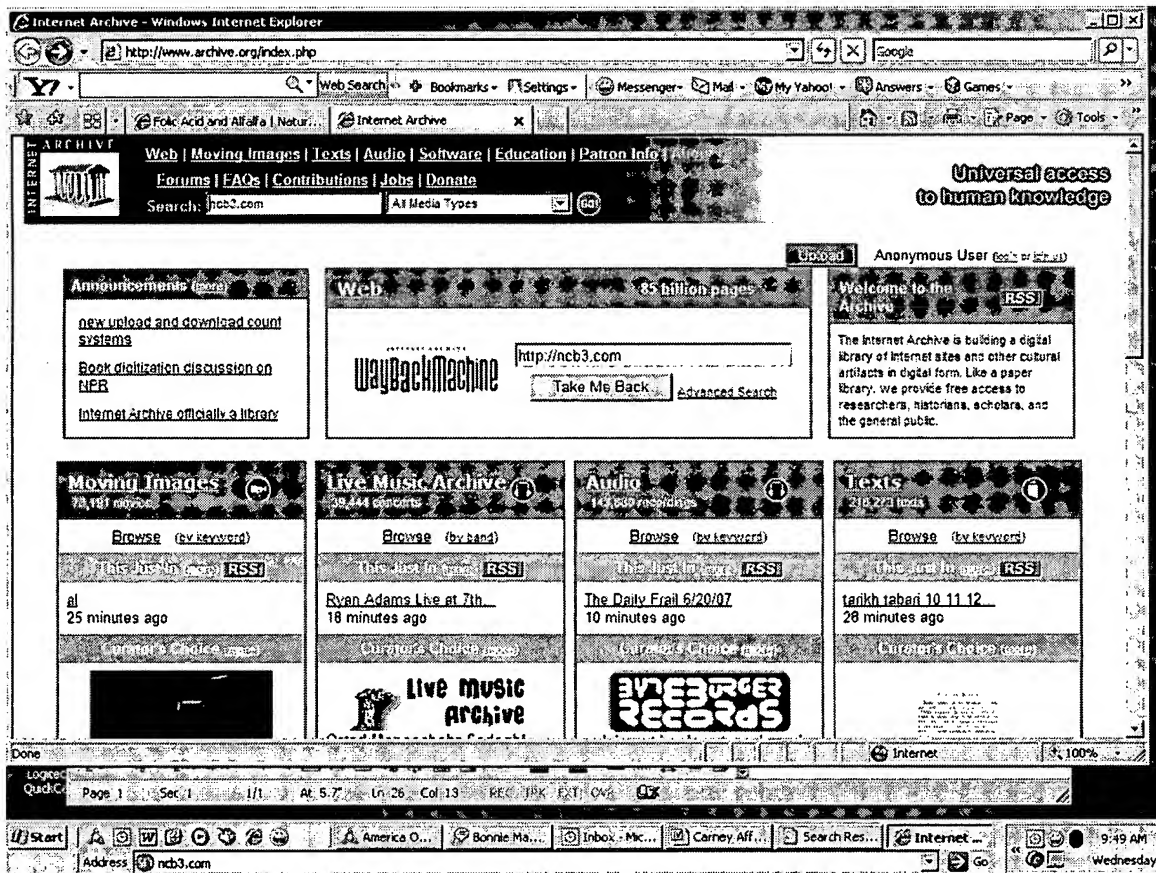
1. I am a Fellow of the American College of Cardiology and have been certified member of the American Board of Internal Medicine, Cardiovascular Disease, since 1983.
2. I have lectured, performed clinical studies and published numerous articles on the issues of cardiovascular disease and hyperlipidemia.
3. Upon the request of Mr. Stephen T. Carney and as a work for hire pursuant to a valid Non Disclosure and Confidentiality Agreement, I conducted the Folic Acid and Alfalfa, The FALL Study, (the "Study") described and made part of the above referenced Patent Application.
4. While I am the author of the Study, the Study was completed as a work for hire and on behalf of the Applicant, Stephen T. Carney. As of the date of this Affidavit, I have never caused said Study to be published or decimated to the public.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Signed under the pains and penalties of perjury this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_, 2007/

  
\_\_\_\_\_  
Lawrence D. Rink, M.D. FACC



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\* denotes when site was updated.

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							Jun 07 2003 *	Feb 12 2004	Jan 15 2005	Jan 14 2005	
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Page Tools

**Natural Cholesterol Balance™**


Helps maintain healthy levels of:


- HDL, LDL,
- C-reactive protein,
- Homocysteine
- Triglycerides

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Natural Cholesterol Balance™ is the result of five years of extensive research to control cholesterol naturally. A double blind clinical study of 45 patients was completed in February 2003 and proved the efficacy of the product. Natural Cholesterol Balance™ is all natural and organically grown in a controlled environment.

History  
ORDER  
Facts  
Contact



  
Lawrence D. Rink  
MD, FACC

**Quick Facts**

LDL	up to a 16.6% decrease
HDL	up to a 11.2% increase
C-reactive protein	up to a 50.4% decrease
Homocysteine	up to a 11.5% decrease
Triglycerides	up to a 15.0% decrease

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**Natural Cholesterol Balance™**

Helps maintain healthy levels of:

- HDL, LDL,
- C-reactive protein,
- Homocysteines
- Triglycerides

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**FOLIC ACID AND ALFALFA**  
**The FALL Study**

History  
ORDER  
Facts  
Contact

**Background:**

There have been reports that alfalfa sprouts will lower total cholesterol and LDL levels in the blood. This has not been tested in a prospective, randomized or blinded trial.

**Method and Results:**

45 patients, most with known coronary artery disease and many under treatment for hyperlipidemia were selected for the study. Patients were randomly assigned to either Group A placebo, Group B low dose alfalfa, and 230 mcg of folic acid, or Group C double dose alfalfa and folic acid.

The trial was six weeks and all patients were instructed to follow a low fat, low cholesterol diet, perform regular exercise in moderation, and to

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Done

Page 1 Sec 1 1/1 At 5.7" Ln 26 Col 13 REC TRK EXT GVR

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Natural Cholesterol Balance™

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History

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With this in mind, we undertook a study to determine the effects of alfalfa sprouts and folic acid on known risk factors of coronary artery disease including total cholesterol, LDL, HDL, triglycerides, high sensitivity C-reactive protein, homocysteine levels, and apolipoprotein (b).

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The majority of patients in this study were already following this type of lifestyle. Over 50% of the patients were already receiving statin drugs and many of the other patients were intolerant to statins because of myalgias or true rhabdomyolysis.

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The results of the study are impressive since the average baseline LDL

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Folic Acid and Alfalfa | Natural Cholesterol Balance

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The combination of alfalfa sprout powder and folic acid appears to be a reasonable, relatively inexpensive method for lowering one's risk for cardiac events. This should be tested in a larger, double blinded prospective trial to see if this not only lowers known cardiac risk factors but also lowers the number of cardiac events.

*Lawrence D Rink*

Lawrence D. Rink, M.D., F.A.C.C.  
Clinical Professor of Medicine  
Indiana University School of Medicine

February 12, 2003

Done

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Address ncb3.com

CLC Nutraceuticals, LLC  
191 Spring Road  
North Kingston, Rhode Island 02852  
(401)8867600

July 18, 2007

VIA FACSIMILE  
Ms. Patricia Leith, Examiner  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

Re: Patent Application 10/800,608

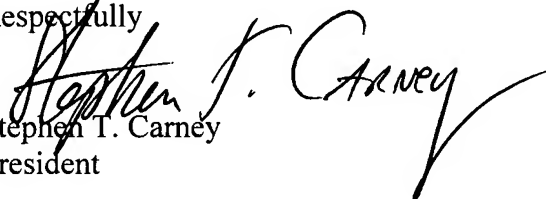
Dear Ms. Leith:

As a further follow up to our telephone conversation in June and the affidavit filed shortly thereafter, please find enclosed herewith the Second Affidavit of Stephen T. Carney outlining the facts regarding the publication of our study on the website made part of your last rejection.

Based on our phone conversation with you and your supervisor back in June and the two affidavits and exhibits filed by me, we have resolved all your outstanding rejections to the issuance of the above referenced Patent. Please contact us at your earliest convenience as to the next step in issuing the Patent in this matter.

Thank you for your anticipated cooperation in this matter.

Respectfully

  
Stephen T. Carney  
President

Enclosures



United States Patent & Trademark Office  
Rule 132 Affidavit

Appl. No. : 10/800,608  
Applicant : Stephen Truesdale Carney  
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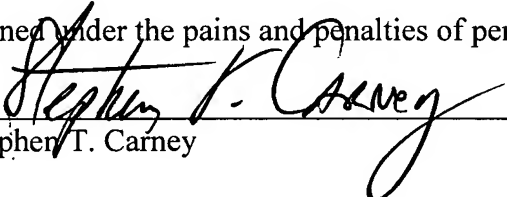
Second Affidavit of Stephen Truesdale Carney

I, Stephen Truesdale Carney, hereby duly depose and say as follows:

1. I reference and incorporate my Affidavit of Stephen Truesdale Carney and restate all statements contained therein. A copy of said affidavit is attached here as Exhibit A.
2. I hired Lawrence D. Rink, M.D. FACC ("Dr. Rink"), to conduct the Folic Acid and Alfalfa, The FALL Study, (the "Study") described and made part of the above referenced Patent Application.
3. After my speech at the International Sprout Growers Association, the Study was published on the website of one of the conference participants International Specialty Supply on or about August 17, 2003. See email from International Specialty Supply representative, Bob Rust, evidencing the same and attached hereto as Exhibit B.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Signed under the pains and penalties of perjury this 19th day of July, 2007.

  
\_\_\_\_\_  
Stephen T. Carney



Jack J. Vultaggio, Jr.



**From:** carneycapital@cox.net  
**Sent:** Wednesday, July 18, 2007 1:26 PM  
**To:** jvultaggio@comcast.net  
**Subject:** Fwd: Re: Researchers Pouring On the Sprouts

The sprout net stuff

> From: "Bob Rust" <Bob@Sproutnet.com>  
> To: <carneycapital@cox.net>  
> Subject: Re: Researchers Pouring On the Sprouts  
> Date: Mon, 16 Jul 2007 05:39:04 -0500

> Steve,

> 8/17/2003 1:04pm is the most likely date.

> Hope this helps,

> Bob

> ----- Original Message -----

> From: <carneycapital@cox.net>  
> To: "Bob Rust" <Bob@Sproutnet.com>  
> Sent: Sunday, July 15, 2007 1:57 AM  
> Subject: Re: Researchers Pouring On the Sprouts

> > Yes. And I will forward the published version when available. Thanks.

> > Steve

> > ---- Bob Rust <Bob@Sproutnet.com> wrote:

> >> Steve,

> >>

> >> Our tech guy is leaving for vacation today. I will catch him when  
> >> he gets back.

> >> By the way, is it still OK to leave that on our website?

> >> Thanks,

> >> Bob

> >> ----- Original Message -----

> >> From: <carneycapital@cox.net>  
> >> To: "Bob Rust" <Bob@Sproutnet.com>  
> >> Sent: Friday, July 13, 2007 9:42 AM  
> >> Subject: Re: Researchers Pouring On the Sprouts

> >> > It is for our patent on the product. When you placed our

> >> > clinical study on your web site, it carried a date stamp on when  
> >> > it was activated. One of

> >> > your web guys should be able to retrieve it. Thansk. Steve Carney

> >> > ---- Bob Rust <Bob@Sproutnet.com> wrote:

> >> >> Sorry, I have no idea. I could probably find out. Why is this  
> >> >> of interest?

> >> >>

> >> >> Bob